Supreme Court, U.S.
FILED
JUL 7 2003
OFFICE OF THE CLERK

(3)

No. 02–1768

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2002

WADE N. SCHOFIELD,

Petitioner,

v.

STATE OF UTAH,

Respondent.

On Petition for Writ of Certiorari
To the Supreme Court of the State of Utah

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

MARK SHURTLEFF (4666)
Utah Attorney General
J. FREDERIC VOROS, JR. (3340)
Chief, Appeals Division
KRIS C. LEONARD (4902)*
Assistant Attorney General
Counsel for Respondent
160 East 300 South, 6th Floor
P O BOX 140854
Salt Lake City, Utah 84114-0854
Telephone: (801) 366-0180
Facsimile: (801) 366-0167

*** Counsel of Record**

33 pp

QUESTION PRESENTED

I. Should this Court review a state court's unanimous, interlocutory determination that, pursuant to state statute, the district court has jurisdiction over defendant with respect to criminal charges which were filed when defendant was twenty-two years old and which involve crimes he allegedly committed while a minor?

PARTIES TO THE PROCEEDING

The caption of the case contains the names of all the parties.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDING. ii

TABLE OF CONTENTS. iii

TABLE OF AUTHORITIES v

OPINION BELOW 2

JURISDICTION 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 2

STATEMENT OF THE CASE AND STATEMENT OF RELEVANT FACTS. 3

ARGUMENTS. 5

THE WRIT SHOULD NOT ISSUE BECAUSE THIS COURT LACKS JURISDICTION OVER PETITIONER'S CLAIM OF ERROR IN THE STATE COURT'S INTERPRETATION OF ITS JURISDICTIONAL STATUTES 5

A. The State Court Judgment Challenged By Petitioner Concerns An Interlocutory Ruling And, Hence, Is Not Final For Purposes Of Review By This Court 5

B. Defendant's Federal Constitution-Based Challenges To The State Court Ruling Were Not Preserved For Review By This Court. 6

CONCLUSION 8

APPENDIX A. *State v. Schofield*, 2002 UT 132, 63 P.3d 667

APPENDIX B. Utah Code Ann. § 78-3-4 (1996)
Utah Code Ann. § 78-3a-104 (1996)

TABLE OF CITED AUTHORITIES

FEDERAL CASES

Brotherhood of Locomotive Firemen v. Bangor & Aroostock R.R.,389 U.S. 327 (1967). 5

Illinois v. Gates, 462 U.S. 213, 218-20 (1983) 6

Monks v. New Jersey, 398 U.S. 71 (1970). 7

Taylor v. Freeland & Kronz, 112 S. Ct. 1644 (1992). 6

Virginia Military Institute v. United States, 113 S. Ct. 2431 (1993) 5

Yee v. Escondido, 112 S. Ct. 1522 (1992). 6

STATE CASES

State v. Schofield, 2002 UT 132, 63 P.3d 667. . . . . 2, 4, 7

CONSTITUTIONAL PROVISIONS

Utah Constitution, article I, section 24. 4

FEDERAL CODE

28 U.S.C. § 1257(a). 2, 5

STATE STATUTES

Utah Code Ann. § 78-3-4 (1996) 2, 4

Utah Code Ann. § 78-3a-104 (1996) 2, 4

Utah Code Ann. § 76-5-402.1 (1995) 3

Utah Code Ann. § 76-6-403.1 (1995) 3

Utah Code Ann. § 76-5-404.1 (1995) 4

No. 02–1768

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2002

WADE N. SCHOFIELD,

Petitioner,

v.

STATE OF UTAH,

Respondent.

On Petition for Writ of Certiorari
To the Supreme Court of the State of Utah

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

The Utah Attorney General, on behalf of the State of Utah, respectfully requests this Court to deny the petition for a writ of certiorari to review the judgment of the Supreme Court of the State of Utah in this case.

OPINION BELOW

The opinion of the Utah Supreme Court is reported at *State v. Schofield*, 2002 UT 132, 63 P.3d 667, and is attached hereto as appendix A.

JURISDICTION

The judgment of the Utah Supreme Court was entered on December 27, 2002. A petition for writ of certiorari was submitted to this Court on March 27, 2003, but was returned by the court clerk due to a deficiency. A revised petition was filed in this Court on April 4, 2003, and a supplemental appendix was filed on June 4, 2003—158 days following entry of the Utah Supreme Court's opinion, as permitted by Rules 13.1, 13.5 and 14.5, Rules of the Supreme Court of the United States. However, this Court lacks jurisdiction under 28 U.S.C. § 1257(a) to review petitioner's claims, as set forth more fully below.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Utah Code Ann. § 78-3-4 (1996)

(complete text is attached in appendix A)

Utah Code Ann. § 78-3a-104 (1996)

(complete text is attached in appendix A).

STATEMENT OF THE CASE
AND
STATEMENT OF RELEVANT FACTS[1]

On November 16, 1999, defendant was over twenty-two years old (R. 106). On that date, the Utah County office of the Division of Child and Family Services ("DCFS") faxed a child sexual abuse report to the Syracuse Police Department ("SPD") (R. 83, 106). The report involved two alleged victims, J.S. and C.S., both of whom were defendants nieces (R. 83-84, 106). The case was given to Detective Mark Sessions, who contacted DCFS in Provo and arranged to interview the alleged victims on November 22, 1999 (R. 83-84, 107). During the interviews, J.S. and C.S. both alleged that defendant had sexually abused them when he was sixteen or seventeen years old and they were six or seven and nine or ten, respectively (R. 84, 107).

Detective Sessions contacted defendant on November 23, 1999, and arranged to speak with him at the SPD (R. 84, 107). At the interview, defendant made incriminating statements (R. 84, 107). Detective Sessions thereafter referred the case to the Davis County Attorney's Office, who filed the information in the district court on March 13, 2000 (R. 84, 107). Based on conduct which allegedly occurred on or about September 1, 1994, defendant was charged with one count of rape of a child, a first degree felony, in violation of Utah Code Ann. § 76-5-402.1 (1995); two counts of sodomy on a child, both first degree felonies, in violation of Utah Code Ann. § 76-5-403.1 (1995); and two counts of aggravated sexual abuse of

---

[1]The case history and relevant facts are taken from defendant's motion to dismiss, the trial court's ruling thereon, and the Information (R. 1-2, 81-93, 106-10). The State stipulated to defendant's recitation of the facts (R. 94).

a child, both first degree felonies, in violation of Utah Code Ann. § 76-5-404.1 (1995) (R. 1-4).

Defendant waived his preliminary hearing, was bound over to the district court, and filed a motion to dismiss the case, arguing that the district court lacked jurisdiction to proceed (R. 72, 81-93). The trial court ultimately denied the motion, holding that the juvenile court lost any jurisdiction it would have had over this matter once defendant turned twenty-one, and that the district court thereafter retained jurisdiction over defendant (R. 106-11).

By order dated September 27, 2000, the Utah Supreme Court granted defendant's petition for interlocutory review of the order (R. 122). That Court ruled that the plain language of the statute granting the juvenile court jurisdiction did not extend to a defendant who was over twenty-one years old when the proceedings commenced, and that there were no statutory exceptions relevant to this defendant to bring him within the juvenile court's jurisdiction. 2002 UT 132, at ¶ 9. The Court then determined that, by statute, the district court had jurisdiction over defendant, and the statute granting the jurisdiction did not violate the uniform operation of laws provision of the Utah Constitution, art. I, § 24. *Id.* at ¶ 11.

ARGUMENTS

THE WRIT SHOULD NOT ISSUE BECAUSE THIS COURT LACKS JURISDICTION OVER PETITIONER'S CLAIM OF ERROR IN THE STATE COURT'S INTERPRETATION OF ITS JURISDICTIONAL STATUTES

A. The State Court Judgment Challenged By Petitioner Concerns An Interlocutory Ruling And, Hence, Is Not Final For Purposes Of Review By This Court

Petitioner originally sought, and was granted, permission to file an interlocutory appeal in the state supreme court from a district court decision denying his motion to dismiss for lack of jurisdiction. He now seeks review of the state supreme court's ruling that undertakes to interpret state jurisdictional statutes for Utah's juvenile and district courts in order to identify the proper forum in which to examine petitioner's responsibility for offenses he is alleged to have committed while a minor.

Petitioner's claim does not merit this Court's discretionary review because he seeks review of an interlocutory order which ultimately remanded the matter to the state judicial district court for further proceedings. This Court's usual practice is not to review interlocutory decisions. *See* 28 U.S.C. § 1257(a) (identifying this Court's certiorari jurisdiction and limiting it to review of "*[f]inal judgments or decrees*") (emphasis added); *see, e.g., Virginia Military Institute v. United States*, 113 S. Ct. 2431 (1993) (opinion of Scalia, J.); *Brotherhood of Locomotive Firemen v. Bangor & Aroostock R.R.*, 389 U.S. 327, 328 (1967). Accordingly, this Court should deny the instant petition.

B. Defendant's Federal Constitution-Based Challenges To The State Court Ruling Were Not Preserved For Review By This Court

This Court ordinarily does not resolve questions that were neither presented to nor passed on by the lower courts. *See, e.g., Taylor v. Freeland & Kronz*, 112 S. Ct. 1644, 1649 (1992); *Yee v. Escondido*, 112 S. Ct. 1522, 1531 (1992) (leaving open the question of whether this Court's refusal to review such a claim is jurisdictional or prudential); *Illinois v. Gates*, 462 U.S. 213, 218-20, *reh'g denied* 463 U.S. 1237 (1983). Petitioner's argument falls within this rule and should not be considered as it was not raised before the state supreme court, despite ample opportunity.

Petitioner outlines four federal cases involving the Federal Juvenile Delinquency Act ["FDJA"] in an attempt to show a parallel between his state-based situation and the federal system. Petition at 7-10. He then outlines other distinguishable federal cases in an effort to convince this Court that, at both the state and federal levels, subject matter jurisdiction over defendants like himself should not exist in the district court absent a formal statutory certification process, begun in the juvenile system and completed prior to the accused's twenty-first birthday. Petition at 11-23. No such process occurred in his case or is required under state statute in his circumstances.

Petitioner did not present this argument in the state courts. *See* Brief and Reply Brief of Appellant in the Utah Supreme Court. He did not cite the federal constitution or any federal cases, he failed to mention the FJDA—around which his petition revolves—and he made no attempt to distinguish between personal and subject matter jurisdiction when providing his interpretation of the relevant state jurisdictional statutes. *Id.* He presented only state law and only

state constitutional arguments. *Id.* Consequently, the state supreme court ruled solely on state constitutional grounds, ultimately finding that the jurisdictional statutes provided for state district court jurisdiction in this matter, and that this interpretation of the relevant jurisdictional statutes did not violate the uniform application of laws provision of the state constitution. 2002 UT 132, at ¶ 19. This Court should therefore deny the instant petition because it presents a claim that the state court had no opportunity to pass upon.[2] *See Monks v. New Jersey*, 398 U.S. 71 (1970) (refusing to entertain on writ of certiorari claim of alleged unconstitutional application of state statute pertaining to disposition of juvenile offenders where state courts were given no opportunity to address it).

[2]Because the petition seeks review of an interlocutory ruling, the State does not address the merits in this response. However, the State will gladly brief the merits of defendant's claims upon this Court's request.

CONCLUSION

For the foregoing reasons, this Court should deny the petition for writ of certiorari.

Respectfully submitted this 7th day of July, 2003.

MARK SHURTLEFF
Utah Attorney General
J. FREDERIC VOROS, JR.
Chief, Appeals Division
KRIS C. LEONARD*
Assistant Attorney General
Counsel for Respondent
Utah Attorney General's Office
160 East 300 South, 6th Floor
P O BOX 140854
Salt Lake City, UT 84114 -0854
Telephone: (801) 366-0180

* Counsel of Record

APPENDIX A

IN THE SUPREME COURT OF THE STATE OF UTAH

----oo0oo----

State of Utah,
Plaintiff and Appellee,

v.

Wade N. Schofield,
Defendant and Appellant.

No. 20000637

FILED
December 27, 2002
2002 UT 132

----oo0oo----

Second District, Farmington

The Honorable Rodney S. Page

Attorneys: Mark L. Shurtleff, Att'y Gen., Kris C. Leonard, Asst. Att'y Gen., Salt Lake City, and Brian J. Namba, Farmington, for plaintiff

Laura K. Thompson, Ogden, for defendant

----oo0oo----

RUSSON, Justice:

¶1 Wade N. Schofield ("Schofield") appeals a decision from the Second District Court of Utah ("district court") denying his motion to dismiss for lack of jurisdiction. Schofield claims that his case properly belongs before the juvenile court, while the State contends that the district court has jurisdiction. We affirm and remand to the district court for trial on the merits.

BACKGROUND

¶2 The facts and procedural history are not in dispute. On November 16, 1999, when Schofield was more than twenty-two years old,(1) the Division of Child and Family Services ("DCFS") in Utah County faxed a report of child sexual abuse to the Syracuse Police Department ("SPD") in Davis County. The report alleged that Schofield had, several years earlier, sexually abused J.S. and C.S., his nieces. Detective Mark Sessions ("Sessions") contacted DCFS in Utah County and interviewed the alleged victims on November 22, 1999. In the interviews, both J.S. and C.S. confirmed allegations that Schofield had sexually abused them when he was sixteen or seventeen years old and they were six or seven years old and nine or ten years old, respectively.

¶3 Sessions contacted Schofield on November 23, 1999, and arranged an interview at SPD. In the course of the interview, Schofield made incriminating statements. Accordingly, Sessions referred the case to the Davis County Attorney, who filed the information in the district court on March 13, 2000. Based on conduct alleged to have occurred on or about September 1, 1994, Schofield was charged with one count of rape of a child, a first degree felony in violation of Utah Code Ann. § 76-5-402.1 (1995),

two counts of sodomy on a child, both first degree felonies in violation of Utah Code Ann. § 76-5-403.1 (1995), and two counts of aggravated sexual abuse of a child, both first degree felonies in violation of Utah Code Ann. § 76-5-404.1 (1995).

¶4 Schofield moved to dismiss the case, arguing that because the alleged events occurred while he was a minor the case properly belongs before the juvenile court. The district court denied the motion, ruling that the juvenile court lost any jurisdiction over Schofield when he turned twenty-one, and that he was subsequently under jurisdiction of the district court.

¶5 On September 27, 2000, this court granted Schofield's petition for interlocutory review of the district court's decision.

STANDARD OF REVIEW

¶6 At issue in this case are the relative jurisdictions of the district and juvenile courts, which are established by statute. *See generally* Utah Code Ann. §§ 78-3-4, 78-3a-104 (1996) (delineating the respective jurisdictions of the district and juvenile courts). The case is therefore one of statutory interpretation, a question of law we review on appeal for correctness. *State v. Burns*, 2000 UT 56, ¶ 15, 4 P.3d 795; *State v. Larsen*, 865 P.2d 1355, 1357 (Utah 1993); *State v. Petersen*, 810 P.2d 421, 424 (Utah 1991).

ANALYSIS

I. JURISDICTION OF THE JUVENILE COURT

¶7 Section 78-3a-104 of the Utah Code provides in pertinent part for the jurisdiction of the juvenile court as follows:

> (1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:
>
> (a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age .
>
> . . .

Utah Code Ann. § 78-3a-104(1)(a) (1996).(2)

¶8 "'When interpreting statutes, we determine the statute's meaning by first looking to the statute's plain language, and give effect to the plain language unless the language is ambiguous.'" *Wilson Supply, Inc. v. Fradan Mfg. Corp.*, 2002 UT 94, ¶ 14, 54 P.3d 1177 (quoting *Blackner v. State Dep't of Transp.*, 2002 UT 44, ¶ 12, 48 P.3d 949); *see also State Dep't of Natural Res. v. Huntington-Cleveland Irrigation Co.*, 2002 UT 75, ¶ 13, 52 P.3d 1257. Furthermore, "[t]he plain language of a statute is to be read as a whole, and its provisions interpreted in harmony with other provisions in the same statute and 'with other statutes under the same and related chapters.'" *Lyon v. Burton*, 2000 UT 19, ¶ 17, 5 P.3d 616 (quoting *Roberts v. Erickson*, 851 P.2d 643, 644 (Utah 1993) (per curiam) (further citations omitted)); *see also Silver v.*

Auditing Div., 820 P.2d 912, 914 (Utah 1991); *Osuala v. Aetna Life & Cas.*, 608 P.2d 242, 243 (Utah 1980).

¶9 The plain language of the statute in question creates two classes of offenders for determining jurisdiction of the juvenile court: (1) those who commit crimes while under age eighteen and are charged before reaching age twenty-one, and (2) those who commit crimes while under age eighteen and are charged after reaching age twenty-one. Only the first class of offenders comes under the jurisdiction of the juvenile court. This plain language reading is also in harmony with another provision in the same statute. Section 78-3a-501 reads in relevant part:

> (1) If, during the pendency of a criminal or quasi-criminal proceeding in another court, including a preliminary hearing, it is determined that the person charged is under 21 years of age and was less than 18 years of age at the time of committing the alleged offense, the court shall transfer the case to the juvenile court . . . .

Utah Code Ann. § 78-3a-501(1)(1996). Thus, the legislature clearly contemplated that the juvenile court would have exclusive original jurisdiction only over those criminal defendants who (1) are younger than twenty-one years of age and (2) were under eighteen years of age when the crime was committed.

¶10 In the present case, Schofield was more than twenty-two years old when criminal proceedings against him commenced. His age manifestly places him outside the statutory jurisdiction of the juvenile court, and there are no statutory exceptions relevant to Schofield that would bring him within the jurisdiction of the juvenile court. Accordingly, we find that the district court was

correct in determining that Schofield does not properly belong before the juvenile court in this matter. *See State v. Hodges*, 2002 UT 117, __ P.3d ___.

II. JURISDICTION OF THE DISTRICT COURT

¶11 Section 78-3-4 establishes the jurisdiction of the district court as follows:

> (1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

Utah Code Ann. § 78-3-4(1) (1996). Schofield argues, however, that placing him in the jurisdiction of the district court to be tried as an adult violates the uniform operation of laws provision of the Utah Constitution, Utah Const. art. I, § 24 ("All laws of a general nature shall have uniform operation."). Schofield contends that section 78-3a-104(1)(a) creates disparate treatment of similarly situated persons--those charged with crimes committed as juveniles--for no legally justifiable reason. To use age at time of commencement of legal proceedings as the sole criterion to determine jurisdiction, he asserts, is arbitrary, has no reasonable basis stated in the statute, and is not reasonably related to any state interest. We disagree.

A. *Mohi* Analysis of Utah Code Ann. § 78-3a-104(1)(a)

¶12 In *State v. Mohi*, 901 P.2d 991 (Utah 1995), this court stated that

> "for a law to be constitutional under [the uniform operation of laws provision], it is not enough that it be uniform on its face. What is critical is that the operation of the law be uniform. A law does not operate uniformly if 'persons similarly situated' are not 'treated similarly.'"

901 P.2d at 997 (quoting *Lee v. Gaufin*, 867 P.2d 572, 577 (Utah 1993) (further citations omitted)). At that time, we articulated a two-step assessment for determining whether a statute comports with the uniform operation of laws provision of the Utah Constitution. "'First, a law must apply equally to all persons within a class. Second, the statutory classifications and the different treatment given the classes must be based on differences that have a reasonable tendency to further the objectives of the statute.'" *Id.* at 997 (quoting *Malan v. Lewis*, 693 P.2d 661, 670 (Utah 1984) (further citations omitted)); *accord Blue Cross & Blue Shield v. State*, 779 P.2d 634, 637 (Utah 1989). This requires that we "first determine what classifications . . . are created by the statute. Second, we must determine whether different classes . . . are treated disparately. Finally, if any disparate treatment exists between classes . . . we must determine whether the legislature had any reasonable objective that warrants the disparity." *Mohi*, 901 P.2d at 997 (citation omitted).

1. Classes Created

¶13 Section 78-3a-104(1)(a) creates two classes of offenders: (1) those who commit crimes while under age eighteen and are charged before reaching age twenty-one, and (2) those who commit crimes while under age eighteen and are charged after reaching age twenty-one. The first class of offenders comes under the jurisdiction of the juvenile court, and the second class of offenders comes under

the jurisdiction of the district court. *See* Utah Code Ann. §§ 78-3a-104(1)(a), 78-3-4(1).

2. Disparate Treatment

¶14 The statute applies equally and predictably to all offenders within both classes, as the assignment of the offender to a particular class by age at the commencement of legal proceedings is quickly and objectively ascertained. If the offender has not yet reached the age of twenty-one at the time charged, the offender is in the jurisdiction of the juvenile court. *See* Utah Code Ann. § 78-3a-104(1)(a). If the offender has reached the age of twenty-one at the time charged, the offender is in the jurisdiction of the district court. *See* Utah Code Ann. §§ 78-3a-104(1)(a), 78-3-4(1). The treatment of the two classes is disparate, but the treatment is not arbitrary or without an objective standard.

3. Reasonable Legislative Objective Warranting Disparity

¶15 Section 78-3a-102 states that the purpose of the juvenile court is to

> (a) promote public safety and individual accountability by the imposition of appropriate sanctions on persons who have committed acts in violation of law;
>
> (b) order appropriate measures to promote guidance and control, preferably in the minor's own home, as an aid in the prevention of future unlawful conduct and the development of responsible citizenship;

(c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed acts bringing them within the court's jurisdiction; [and]

. . .

(g) consistent with the ends of justice, strive to act in the best interests of the minor[] in all cases and attempt to preserve and strengthen family ties where possible.

Utah Code Ann. § 78-3a-102(5) (1996).

¶16 The juvenile court's statutory authority is focused on the education, rehabilitation, and treatment of minors, the purpose being to assist young offenders in rebuilding their lives in the ambit of their families. Consistent with this purpose, all cases before the juvenile court are considered civil proceedings. Utah Code Ann. § 78-3a-515(1) (1996). This furthers a reasonable state interest in preventing youth offenders, who are still in their formative years, from accruing a criminal record and potentially becoming worse or even adult offenders.

¶17 As a tribunal geared toward the special needs of youth offenders, the juvenile court therefore is not designed to deal with adults charged with crimes. When adults do become involved with the juvenile court, its statutory jurisdiction over them is appropriately very limited. For example, the juvenile court has concurrent jurisdiction with the district court over adults who contribute to the delinquency of a minor. In this situation, however, there are statutory guidelines for special proceedings in the juvenile court to try such adult offenders criminally as adults, or even to transfer the adult entirely to the district court. Utah Code Ann. §§

78-3a-801 to -803 (1996). Thus, the reasonable legislative objective of the juvenile court is maintained, to act in the interest and rehabilitation of minor offenders.

¶18 Under the analysis set out in *Mohi*, section 78-3a-104(1)(a) clearly applies equally to all persons within the classes it creates and the disparate treatment given the statutory classes is based on differences that have a reasonable tendency to further the objectives of the statute. It is therefore uniform both on its face and in operation. Accordingly, we hold that section 78-3a-104(1)(a) comports with the uniform operation of laws provision of the Utah Constitution.(3)

B. District Court Jurisdiction Over Schofield

¶19 By statute, the district court has "original jurisdiction in all matters civil and criminal." Utah Code Ann. § 78-3-4(1) (emphasis added). The district court, therefore, has jurisdiction over Schofield in this criminal matter. Schofield is not in the jurisdiction of the juvenile court, and there are no statutory exceptions that place him there. Furthermore, trying Schofield in the district court as an adult for crimes he is alleged to have committed as a minor does not violate the uniform operation of laws provision of the Utah Constitution. Accordingly, we find that the district court was correct in determining that it has proper jurisdiction over Schofield.

CONCLUSION

¶20 For the reasons set forth above, we affirm the decision of the district court and remand the case to be tried on the merits. We also hold that Utah Code Ann. § 78-3a-104(1)(a) does not violate the uniform operation of laws provision of the Utah Constitution.

----oo0oo----

¶21 Chief Justice Durham, Associate Chief Justice Durrant, Justice Howe, and Justice Wilkins concur in Justice Russon's opinion.

---

1. Schofield turned twenty-one on September 30, 1998.

2. The 1996 version of section 78-3a-104(1)(a) is substantively identical to the 1994 version of section 78-3a-16(1)(a). Schofield asserts that the controlling statutes in this case are the 1994 versions existing at the time of his alleged offenses. He is incorrect. As the main body of the opinion makes clear, the operative issue for determination of jurisdiction of the juvenile court is the age of the offender at commencement of criminal proceedings. Nonetheless, as the 1994 and 1996 versions of the statutes are substantively identical, the analysis remains the same. Thus, Schofield is also incorrect in asserting that prosecuting him in the district court for crimes he is alleged to have committed as a juvenile is an ex post facto application of the law. The same is true of all references to relevant sections of the 1996 version of the Utah Code.

3. Because we find that the statute comports with the uniform operation of laws provision of the Utah Constitution, we need not reach the question of whether it violates the federal Equal Protection Clause. *See Blue Cross & Blue Shield v. State*, 779 P.2d 634, 637, 645 (Utah 1989); *Mountain Fuel Supply Co. v. Salt Lake City Corp.*, 752 P.2d 884, 890 (Utah 1988).

APPENDIX B

UTAH STATUTES UNANNOTATED

§ 78-3-4 Jurisdiction -- Appeals.

Copyright © 1953, 1971, 1979, 1981, 1983, 1985 by The Allen Smith Company. Copyright © 1987-1996 by Michie, a division of Reed Elsevier Inc. and Reed Elsevier Properties Inc. All rights reserved.

78-3-4 Jurisdiction -- Appeals.

(1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

(2) The district court judges may issue all extraordinary writs and other writs necessary to carry into effect their orders, judgments, and decrees.

(3) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

(4) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

(5) The district court has appellate jurisdiction to adjudicate trials de novo of the judgments of the justice court and of the small claims department of the district court.

(6) Appeals from the final orders, judgments, and decrees of the district court are under Sections 78-2-2 and 78-2a-3.

(7) The district court has jurisdiction to review agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative Procedures Act, and shall comply with the requirements of that chapter, in its review of agency adjudicative proceedings.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-3-4; L. 1983, ch. 75, § 2; 1986, ch. 47, § 50; 1987, ch. 161, § 305; 1988, ch. 248, § 10; 1991, ch. 268, § 23; 1992, ch. 290, § 8; 1993, ch. 59, § 6; 1996, ch. 198, § 50.

NOTES, REFERENCES, AND ANNOTATIONS

Amendment Notes. -- The 1988 amendment, effective April 25, 1988, rewrote Subsection (5) which formerly read "The district court shall comply with the requirements of Chapter 46b, Title 63, in its review of agency adjudicative proceedings" and made minor stylistic changes in Subsections (1) and (2).

The 1991 amendment, effective January 1, 1992, inserted "Administrative Procedures Act" and made a related punctuation change in Subsection (5), and added Subsection (6).

The 1992 amendment, effective July 1, 1992, deleted the last two sentences in Subsection (6), which read: "Notwithstanding Section 78-3-16.5, civil filing fees in such cases shall be the same as if filed in the circuit court. The party filing a pleading or other document shall, at the time of filing, provide proof that the pleading or other document qualifies for the circuit court fee."

The 1993 amendment, effective March 12, 1993, substituted "the circuit and district court of" for "no such court exists in" and inserted "have been merged into one court under Section 78-1-2 or 78-1-2.4" in the first sentence in Subsection (6).

The 1996 amendment, effective July 1, 1996, deleted former Subsection (3), relating to transfer of cases to circuit court; added new Subsections (3) to (5), redesignating former Subsections (4) and (5) as (6) and (7); and deleted former Subsection (6), providing for jurisdiction when the circuit and district courts have been merged.

UTAH STATUTES UNANNOTATED

§ 78-3a-104 Jurisdiction of juvenile court

Copyright © 1953, 1971, 1979, 1981, 1983, 1985 by The Allen Smith Company. Copyright © 1987-1996 by Michie, a division of Reed Elsevier Inc. and Reed Elsevier Properties Inc. All rights reserved.

78-3a-104 Jurisdiction of juvenile court -- Original -- Exclusive.

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

(b) a person 21 years of age or older who has failed or refused to comply with an order of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st birthday; however, the continuing jurisdiction is limited to causing compliance with existing orders;

(c) a minor who is abused, neglected, or dependent, as those terms are defined in Section 78-3a-103;

(d) the determination of the custody of a minor or to appoint a guardian of the person or other guardian of a minor who

comes within the court's jurisdiction under other provisions of this section;

(e) the termination of the legal parent-child relationship in accordance with Part 4, Termination of Parental Rights Act, including termination of residual parental rights and duties;

(f) the treatment or commitment of a mentally retarded minor;

(g) a minor who, in defiance of earnest and persistent efforts on the part of his parents and school authorities as required under Section 53A-11-103, is a habitual truant from school;

(h) the judicial consent to the marriage of a minor under age 16 upon a determination of voluntariness or where otherwise required by law, employment, or enlistment of a minor when consent is required by law;

(i) any parent or parents of a minor committed to a secure youth corrections facility, to order, at the discretion of the court and on the recommendation of a secure youth corrections facility, the parent or parents of a minor committed to a secure youth corrections facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure youth corrections facility therapist, who has supervision of that parent's or parents' minor, or any other therapist the court may direct, for a period directed by the court as recommended by a secure youth corrections facility;

(j) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

(k) the treatment or commitment of a mentally ill child. The court may commit a child to the physical custody of a local mental health authority or to the legal custody of the Division of Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part 2A. The court may not commit a child directly to the Utah State Hospital; and

(l) the commitment of a minor in accordance with Section 62A-8-501.

(2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent jurisdiction over the following traffic offenses committed by a minor 16 years of age or older:

(a) Section 76-5-207, automobile homicide;

(b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

(c) Section 41-6-45, reckless driving;

(d) Section 41-1a-1311, unauthorized control over a motor vehicle, trailer, or semitrailer;

(e) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer for an extended period of time; and

(f) Section 41-6-13.5, fleeing a peace officer.

(3) The court also has jurisdiction over traffic offenses that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(4) The juvenile court has jurisdiction over questions of custody, support, and visitation certified to it by the district court.

(5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is referred to it by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that minor where, despite earnest and persistent efforts by the division or agency, the minor has demonstrated that he:

(a) is beyond the control of his parent, guardian, lawful custodian, or school authorities to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

(b) has run away from home.

(6) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78-3a-602.

History: C. 1953, 78-3a-104, enacted by L. 1996, ch. 1, § 27; 1996, ch. 234, § 15; 1996, ch. 318, § 36.

NOTES, REFERENCES, AND ANNOTATIONS

Amendment Notes. -- The 1996 amendment by ch. 234, effective April 29, 1996, added Subsections (1)(k) and (1)(l), making a related stylistic change, and in Subsection (1)(f) deleted "mentally ill or" before "mentally retarded minor" and "who comes within the court's jurisdiction under other provisions of this section" after "mentally retard minor."

The 1996 amendment by ch. 318, effective April 29, 1996, inserted "Child and" in Subsection (5).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

Effective Dates. -- Laws 1996, ch. 1, § 94 makes the act effective on January 31, 1996.